

REMARKS

Claims 5-13 are all of the claims pending in the application.

I. Improper Finality

Applicant respectfully submits that new grounds of rejection have been presented in the present Office Action that were not necessitated by any amendment made by the Applicant.

Accordingly, Applicant submits that the finality of the present Office Action is premature and, therefore, respectfully requests the Examiner to withdraw the finality.

In a telephonic interview on November 25, 2008, the Examiner agreed that the 35 U.S.C. § 103(a) rejections of claims 5, 7, and 9 in the Office Action dated August 29, 2008, were deficient and that the claims are patentable over U.S. Patent No. 5,349,518 to Zifferer et al. (hereinafter "Zifferer") in view of U.S. Patent Application Publication No. 2002/0147505 to Beck et al. (hereinafter "Beck") and further in view of U.S. Patent No. 5,886,274 to Jungleib (hereinafter "Jungleib").

Specifically, the Examiner agreed that claim 7, as presented in the Amendment dated May 8, 2008, and before subsequent amendments, is patentable over Zifferer, Beck, and Jungleib. Thus, because the Examiner agreed that claim 7, before amendments subsequent to those presented in the Amendment dated May 8, 2008, was patentable over Zifferer, Beck, and Jungleib, the new grounds of rejection were *not* necessitated by any amendment made by the Applicant. Instead, the new grounds of rejection were necessitated by the clear deficiency of the art rejection in the Office Action dated August 29, 2008, as conceded by the Examiner in the telephonic interview.

Applicant respectfully notes that claim 7 was amended in the Amendment dated December 1, 2008, in response to the Examiner's indication in the interview that he would reject claim 7 under 35 U.S.C. § 101 in the next Office Action. Claim 7 was amended based upon the

Examiner's suggestion in order to preempt a 35 U.S.C. § 101 rejection, not to overcome any art cited by the Examiner.

Accordingly, Applicant respectfully submits that the current grounds of rejection of claims 5-13 should have been made of record by the Examiner in the Office Action dated August 29, 2008. By making the present Office Action a final action, Applicant has not been afforded the opportunity to respond by amending claims 5-13 as a matter of right.

Based on the foregoing, Applicant respectfully requests that the finality of the present Office Action be withdrawn.

II. Summary of the Office Action

The Examiner withdrew the 35 U.S.C. § 101 rejection of claims 5, 6, and 9 and the 35 U.S.C. § 103(a) rejection of claims 5-13.

Claims 5-13 are newly rejected under 35 U.S.C. § 102(e).

III. Claim Rejections under 35 U.S.C. § 102(e)

Claims 5-13 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,850,808 to Yuen et al. (hereinafter "Yuen"). Applicant respectfully traverses this rejection and respectfully requests that the Examiner reconsider the rejection at least in view of the following comments.

Turning to claim 5, the Examiner alleges that Yuen discloses "an instruction table for storing instructions and corresponding input/output types of parameters for the instructions," as recited, *inter alia*, in claim 5. Applicant respectfully disagrees.

The Examiner appears to interpret the claimed instruction table inconsistently, pointing to both the I/O table which according to Yuen stores values of the control variables received from or transmitted to the I/O circuits (*see* col. 5, lines 7-10 of Yuen) as well as the pane 213 shown in FIG. 5 of Yuen (*see* page 3 of the Office Action). Applicant respectfully submits that neither the

I/O table nor the pane 213 are the same as the claimed instruction table storing instructions and corresponding input/output types of parameters for the instructions.

First, with respect to the I/O table, according to Yuen, this table stores values of the control variables received from or transmitted to the I/O circuits. Yuen discloses that a control program reads those I/O values and executes a control logic prepared by a programmer specifically for the controlled process. *See* col. 5, lines 7-14 of Yuen.

Applicant respectfully notes that the I/O table according to Yuen does not store instructions. A person of ordinary skill in the art would understand that a variable is not an instruction because, unlike an instruction, a variable does not specify any action to be performed. FIG. 4 of the instant application shows examples of instructions 31, which include “LD,” “OUT,” and “MOV.”

Furthermore, Applicant respectfully submits that the I/O table according to Yuen does not store corresponding input/output types of parameters for instructions. The Examiner points to the control variables according to Yuen as allegedly being the same as the claimed corresponding input/output types of parameters for instructions. However, Applicant notes that a person of ordinary skill in the art would clearly understand that neither a control variable nor a value of a control variable is the same as the claimed input/output types of parameters for instructions. Because the I/O table according to Yuen does not store instructions, the I/O table cannot store corresponding input/output types of parameters for the instructions. Furthermore, while the variables disclosed by Yuen may have types, Yuen only discloses that the values are stored in the I/O table, not input/output types. Applicant respectfully notes that FIG. 4 of the instant application shows examples of input/output types 32 of parameters for instructions, which include “input,” “output,” and “internal” (*see* element 32 of FIG. 4 and page 13, lines 10-14 of the specification).

Second, with respect to the pane 213 shown in FIG. 5 of Yuen, Applicant respectfully notes that the pane 213 lists templates and template type and version information (*see* col. 9, lines 28-31 of Yuen). A person of ordinary skill in the art would understand that a template is not the same as an instruction and that the pane 213 does not correspond instructions to input/output types of parameters for instructions. Additionally, Applicant respectfully notes that the types shown in pane 213, such as “MOTOR UP,” “MOTOR DOWN,” and “RUN,” are not input/output types (*see* FIG. 5 of Yuen).

Thus, Applicant respectfully submits that Yuen does not disclose an instruction table for storing instructions and corresponding input/output types of parameters for the instructions.

The Examiner also alleges that Yuen discloses “a search/determination means for searching the instruction table for an instruction in a code in a portion of a sequence program selected as diversion data from an existing diversion-source sequence program, to determine a corresponding input/output type of a parameter for the instruction,” as recited, *inter alia*, in claim 5.

In support of the Examiner’s argument, the Examiner points to various elements of FIG. 3 of Yuen (*see* page 3 of the Office Action). However, FIG. 3 of Yuen is merely a schematic diagram showing various software programs and entities in the system according to Yuen (*see* col. 4, lines 19-20 of Yuen). The Examiner does not point to any relationships between the various elements of FIG. 3 corresponding to the claimed searching. Moreover, FIG. 3 of Yuen does not describe any capability for searching an instruction table. Applicant respectfully submits that the Yuen reference does not disclose searching an instruction table for an instruction in a code in a portion of a sequence program selected as diversion data from an existing diversion-source sequence program, to determine a corresponding input/output type of a parameter for the instruction.

Additionally, the Examiner alleges that Yuen discloses “a search result creating/storing means for creating and storing a search result table by combining an address in the code in the selected portion of the sequence program, with the determined corresponding input/output type,” as recited, *inter alia*, in claim 1. Applicant respectfully disagrees.

The Examiner points to disclosure in Yuen related to incorporating data into control programs via dynamic link libraries (*see* page 3 of the Office Action) as allegedly being the same as the claimed address in the code. According to Yuen, the dynamic link libraries contain multiple executable program routines called upon by other applications (*see* col. 6, lines 63-65 of Yuen). Applicant respectfully submits that a person of ordinary skill in the art would understand that a dynamic link library is not the same as an address in the code. Furthermore, Yuen does not disclose combining a dynamic link library (alleged address in the code) with a determined corresponding input/output type.

Instead, rather than searching for an instructions in a code and combining an address in a code with a corresponding input/output type, according to Yuen, control variables are identified that can be replaced during the instantiation process or that may be linked with other variables by way of interface mappings in the formation of compound templates (*see* col. 7, lines 1-6 of Yuen).

Thus, Yuen does not disclose a search result creating/storing means for creating and storing a search result table by combining an address in the code in the selected portion of the sequence program, with the determined corresponding input/output type.

At least for these reasons, Applicant respectfully submits that claim 5 is patentable over Yuen.

Applicant respectfully submits that independent claims 7 and 13 recite features similar to, although not necessarily coextensive with, the features discussed above with respect to claim 5.

Accordingly, Applicant respectfully submits that claims 7 and 13 are patentable over Yuen at least for the reasons discussed above with respect to claim 5. Applicant respectfully submits that dependant claims 6, 9, and 11, and claims 8, 10, and 12 are patentable over Yuen at least by virtue of their dependency on claims 5 and 7, respectively.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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